

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

ALVIN J. BAILEY

§

v.

§

CIVIL ACTION NO. 9:10cv30

COMMISSIONER, SOCIAL SECURITY  
ADMINISTRATION

§

ORDER ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES  
MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the action be dismissed without prejudice for failure to prosecute and failure to obey an order of the Court, pursuant to Fed. R. Civ. P. 41(b). Plaintiff has filed a request for further review, construed as a written objection.

Having made a *de novo* review of the objections filed by Plaintiff, the Court finds that the findings, conclusions and recommendation of the Magistrate Judge are correct and the objections are without merit. Specifically, the Plaintiff has not filed an opening brief on his Social Security benefits claim. The physician's letter he filed on November 30, 2010, after two lengthy extensions of time, is insufficient as an opening brief.

In light of the foregoing, it is

**ORDERED** that the complaint is hereby **DISMISSED WITHOUT PREJUDICE**. It is further

**ORDERED** that any motion not previously ruled on is **DENIED**.

So **ORDERED** and **SIGNED** this **10** day of **December, 2010**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

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Ron Clark, United States District Judge